IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 683 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DIMPAL HARSHADKUMAR THAKORE W/O HARSHADKUMAR BALDEVBHAI

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 683 of 2003

MR KARTIK V PANDYA for Petitioner No. 1-2

Mr V M Pancholi, APP Respondent No. 1

MR MC BAROT for Respondent No. 2

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 18/06/2003

ORAL JUDGEMENT

Learned Advocate for the petitioners submits on record certified copy of an application filed by the

contesting respondents before the learned Metropolitan Magistrate Court at Ahmedabad for search warrant under section 97 of the Code of Criminal Procedure, the order passed below that application and the statement made by petitioner-Dimpal Harshadkumar Thakore and her application before the said court dated 18.1.2003.

2. Heard the learned advocate for the petitioners and Mr V M Pancholi, learned APP for the State and Mr M C Barot, learned Advocate for the contesting respondent. It seems that the contesting respondent filed FIR being CR No.5/2003 before Sherkotda police station dated 2.1.2003 against the petitioner for an offence under section 380 read with section 114 of IPC stating that the petitioners have committed theft from the house of the contesting respondent.

3. It appears that ultimately the two petitioners have married and they have been staying together. The aforesaid records submitted by the learned Advocate for the petitioner make it clear that the two petitioners are married and petitioner No.1 Dimpal Harshadkumar Thakore has been staying with petitioner Harshadkumar Thakore and both are staying as husband and wife. In view of the above position, when the petitioners have married, it seems that the contesting respondent is no more interested in prosecuting his FIR. Therefore, after hearing Mr M C Barot, learned Advocate for the contesting respondents and in view of the aforesaid facts and circumstances of the case on record and considering the fact that the petitioners have married, this would be a fit case for exercising powers of quashing the said FIR.

4. For the foregoing reasons, this petition is allowed. The FIR filed by the contesting respondents on 2.1.2003 before the Sherkotda police station and registered as CR No.5/2003 against the petitioners for an offence under section 380 read with section 114 of IPC, is ordered to be quashed and set aside. The I.O. shall, therefore, not proceed with the investigation in respect of the said offence.

Rule is made absolute. D.S. permitted.

[D P Buch, J.]
msp